



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,270	09/11/2003	Dean T. Moore	ERICP0342USA	5033

7590 02/06/2006
Jonathan A. Platt
Nineteenth Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

EXAMINER

FELTON, AILEEN BAKER

ART UNIT	PAPER NUMBER
----------	--------------

1755

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,270

Applicant(s)

MOORE ET AL.

Examiner

Aileen B. Felton

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17-25 and 27-39 is/are pending in the application.
- 4a) Of the above claim(s) 15, 17-25 and 27-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 15, 17-25, and 27-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected groups and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/17/2006.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 9, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiley (3,713,852).

Wiley discloses an exothermic composition comprising iron oxide, aluminum, sand and a binder (see tables II and IV). A layer of rice hulls covered with sand can be added on top of the briquettes of the exothermic composition to insulate. (col. 4, lines 60-65). The ability of the briquette to retain its shape is an inherent property of this cast composition.

4. Claims 1-9, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Walsh et al (3,198,640).

Walsh discloses an exothermic composition comprising a granular refractory, aluminum, iron oxide and sodium silicate as a binder (see examples and col. 3, lines 35-

45. The composition is molded into any desired shape and when utilized does not melt but substantially retains its original shape (col. 3, lines 45-50 and col. 4, lines 10-15).

5. Claims 1-7, 9, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Cross (3,025,153).

Cross discloses an heat producing mixture comprising aluminum, iron oxide, binder, and sand (see example). The composition is molded and can be multi-layer where one of the layers includes a heat insulating or refractory materials (col 2, lines 40-50). The ability of the molded article to retain its shape is an inherent property of this cast composition.

Claim Rejections - 35 USC § 103

6. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiley (3,713,852) or Cross (3,025,153) as applied to claims 1-7, 9, 13, and 14 above, and further in view of Verneker (4,824,495).

Verneker teaches the use of an insulating layer of Fiberfrax to control and confine the combustion (col. 8, lines 15-25).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the insulating layer as taught by Verneker since both Wiley and Cross discloses the use of insulating materials and since the teaching of Verneker relates to the same technical problem at hand in both Wiley and Cross to control and confine the exothermic reaction.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aileen B. Felton whose telephone number is 571.272.6875. The examiner can normally be reached on Monday-Friday 6:30-4:00, except alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571.272.1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


AILEEN FELTON
PRIMARY EXAMINER